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Attorney for Debtors

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:	)	BK-09-19569-LBR
)	
BALTAZAR F. NAJERA)	
	)	CHAPTER 13
)	
	)	OPPOSITION TO MOTION FOR RELIEF FROM STAY
)	
	)	DATE: October 28, 2009
Debtor(s).	)	TIME: 1:30 p.m.
)	

COMES NOW the above-named debtor, Baltazar F. Najera (hereinafter “**Debtor**”), by and through his attorney of record, Jorge L. Sanchez, of the law firm of Sanchez Law Group, Ltd., and hereby files the instant Opposition to the Motion for Relief from Stay filed by the secured creditor, Wells Fargo Bank, N.A. (hereinafter “**Wells Fargo**”), in regards to Debtor’s real property located at 1108 Tamerack Ave., Las Vegas, NV 89106 (the “**Subject Property**”). In support thereof, Debtor states as follows:

Wells Fargo requests relief from stay for the Subject Property on the ground that it is not adequately protected. This assertion is baseless. Debtor filed a Chapter 13 plan under which he proposed to repay the arrearage owed to Wells Fargo for the subject property over the course of the plan. To date, Debtor has timely made all plan payments. In addition, Debtor has made all required post-petition monthly mortgage payments directly to Wells Fargo as stated in the plan.

Under 11 U.S.C. § 361(1), Debtor may provide adequate protection by “requiring the trustee to make a cash payment or periodic cash payments to (Wells Fargo), to the extent that the

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1 stay under section 362 of this title, use, sale, or lease under section 363 of this title, or any grant
2 of a lien under section 364 of this title results in a decrease in the value of such entity's interest
3 in such property." Thus, within the meaning of the Bankruptcy Code, Wells Fargo, at all
4 relevant times, was adequately protected by virtue of Debtor making his monthly plan payments
5 proposed in his plan.
6

7 If Wells Fargo's records reflect that Debtor has not been making the required payments
8 set forth above, then it must be due to the fact that Wells Fargo is either refusing to accept the
9 payments or is improperly crediting the same. Under those circumstances, it would be
10 inequitable to lift the stay in favor of Wells Fargo on the ground that Wells Fargo has voluntarily
11 chosen not to accept/credit payments that would have adequately protected its interest in the
12 Subject Property.
13

14 WHEREFORE, Debtor, by counsel, respectfully requests this Honorable Court to fully
15 deny the relief requested by Wells Fargo in its Motion for Relief from Stay.
16

17 Dated this the 1st day of October, 2009.
18

19 /s/Jorge L. Sanchez, Esq.
20 JORGE L. SANCHEZ, ESQ.
21 Attorney for Debtor
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**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:)	BK-09-19569-LBR
)	
BALTAZAR F. NAJERA)	
	)	CHAPTER 13
)	
	)	CERTIFICATE OF SERVICE FOR
	)	OPPOSITION TO MOTION FOR
	)	RELIEF FROM STAY
)	
	)	DATE: October 28, 2009
Debtor(s).	)	TIME: 1:30 p.m.
)	

1. On October 1st, 2009, I served the following document(s):

OPPOSITION TO MOTION FOR RELIEF FROM STAY. I served the above-named document(s) by the following means to the persons as listed below:

a. ECF System

Rick A. Yarnall, Chapter 13 Trustee

Gregory L. Wilde, Esq.
Wilde & Associates
Attorneys for Creditor, Wells Fargo

b. Certified United States mail, postage fully prepaid, addressed as follows:

c. Personal Service

I personally delivered the document(s) to the persons at these addresses:

d. By direct email

Based upon the written agreement of the parties to accept service by email or a court order, I caused the document(s) to be sent to the persons at the email addresses listed below. I did

1 not receive, within a reasonable time after the transmission, any electronic message or other
2 indication that the transmission was unsuccessful.

3 e. By fax transmission

4 Based upon written agreement of parties to accept service by fax transmission or a court
5 order, I faxed the document(s) to the persons at the fax numbers listed below. No error was
6 reported by the fax machine that I used. A copy of the fax transmission is attached.

7 f. By messenger

8 I declare under penalty of perjury that the foregoing is true and correct.

9 Dated: October 1st, 2009

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11 /s/Brandy Goodwin/s/

12 An employee of Sanchez Law Group
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